

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CITAK & CITAK, DONALD CITAK and  
BURTON CITAK,

Plaintiffs,

Civil Action No. 07 CIV 5459

-against-

THE ST. PAUL TRAVELERS COMPANIES,  
INC. a/k/a ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY,

**DECLARATION OF JONATHAN R.  
HARWOOD IN SUPPORT OF  
DEFENDANT'S MOTION TO  
DISMISS COMPLAINT**

Defendant.

-----x  
JONATHAN R. HARWOOD, being duly sworn, deposes and says:

1. I am an attorney admitted to practice in the State of New York and before the United States District Court for the Southern District of New York. I am a member of the law firm of Traub Lieberman Straus & Shrewsberry LLP, attorneys for defendant The St. Paul Travelers Companies, Inc. a/k/a St. Paul Fire and Marine Insurance Company ("St. Paul"). As such, I am familiar with the facts, pleadings and prior proceedings in the instant matter.
2. I submit this declaration in support of St. Paul's motion to dismiss the complaint.
3. A true and correct copy of the amended complaint is annexed hereto as Exhibit A.
4. A true and correct copy of the complaint in an action entitled *Marton v. Citak & Citak, et al.*, is annexed hereto as Exhibit B.
5. A true and correct copy of a complaint filed by Stuart Marton against Citak & Citak with the Departmental Disciplinary Committee of the Supreme Court, Appellate Division, First Department is annexed hereto as Exhibit C.

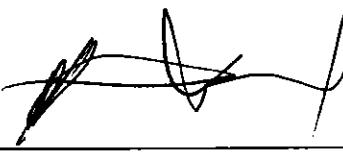
6. A true and correct copy of Stuart Marton's March 16, 2006 letter to the Departmental Disciplinary Committee, is annexed hereto as Exhibit D.

7. A true and correct copy of a June 23, 2006, letter from St. Paul to the Citak firm denying coverage for the Marton's claim, is annexed hereto as Exhibit E.

8. A true and correct copy of a February 8, 2006 letter from Donald Citak to the Departmental Disciplinary Committee, is annexed hereto as Exhibit F.

Dated: Hawthorne, New York  
February 8, 2008

TRAUB LIEBERMAN STRAUS & SHREWSBERRY LLP

  
By: \_\_\_\_\_  
Jonathan R. Harwood (JRH 9060)

Mid-Westchester Executive Park  
Seven Skyline Drive  
Hawthorne, New York 10532  
(914) 347-2600  
Attorneys for Defendant

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF WESTCHESTER )

Christina Golino, being duly sworn, deposes and says:

That deponent is not a party to the within action and is over 18 years of age.

That on the 8<sup>th</sup> day of February 2008, deponent served the within **NOTICE OF MOTION AND DECLARATION OF JONATHAN R. HARWOOD IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS** upon the attorney(s) for the respective party(ies) in this action, at the address listed below, such address designated by said attorney for that purpose via **Electronic Case Filing System**.

TO: Peter Wessel, Esq.  
Law Office of Peter Wessel, PLLC  
270 Madison Avenue, Suite 1203  
New York, New York 10016  
Mineola, New York 11501  
E-mail: [Peterwessel@wessellaw.com](mailto:Peterwessel@wessellaw.com)

Christina Golino  
CHRISTINA GOLINO

Sworn to before me this  
8<sup>th</sup> day of February, 2008

Claudia N. Bonci

**CLAUDINE N. BONCI**  
Notary Public, State of New York  
No. 01BO5015056  
Qualified in Westchester County  
Commission Expires July 12, 2011